

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Daniel W. Kuzndorski &amp; Randall C. Jenkins

Serial No.: 08785,077

Group Art Unit: 1207

Filed: 1-17-97

Examiner: Unknown

For: MECHANICALLY FROTHED AND CHEMICALLY BLOWN  
POLYURETHANE FOAM

"Express Mail" mailing label number: TM40055692US  
Date of Deposit: April 25, 1997

I hereby certify that this paper or fee is being deposited with the United States Postal Service, with sufficient postage "Express Mail Post office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231

Nancy F. Hobbs

(Typed or printed name of person mailing paper or fee)

*Nancy F. Hobbs*  
(Signature of person mailing paper or fee)

Assistant Commissioner of Patents & Trademarks  
Washington, D.C. 20231

Sir:

DECLARATION OF GENE L. TYLER

Gene L. Tyler, a registered attorney of the bar of the Patent and Trademark Office, having Registration No. 35,395, hereby declares as follows:

1. That he is a registered member of the patent bar since 1992 and has been in continual practice since his registration and is employed by The Dow Chemical Company as a Patent Attorney at their Freeport, Texas location;
2. That in connection with his duties, he prepared a provisional patent application based on an invention disclosure designated 42741, filed January 19, 1996;
3. That the patent application referenced in ¶2 was given the serial number 60/010,247 in the United States Patent Office;

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4. That the subject patent application, filed January 17, 1997 and given serial number 08/785,077, is a direct progeny of the 60/010,247 application;
5. That in the interim between the filing of the 101,247 application and the filing of the 785,077 application, one of the co-inventors, Mr. Daniel W. Kazmierski, has become a hostile inventor and refuses to execute some of the application documents;
6. That the other inventor of the present application, Mr. Randy Jenkins, reviewed the contents of the application and signed the final papers for the present application on April 8, 1997;
7. That both Mr. Jenkins and Mr. Kazmierski have signed an Assignment and a Declaration for the 42,741 invention, Mr. Kazmierski signing on January 31<sup>st</sup>, 1996;
8. That Mr. Kazmierski was presented with the Declaration and Power of Attorney document on or before February 11, 1997;
9. That Mr. Kazmierski has refused to sign this document despite repeated requests by both his co-inventor and Mr. Tyler, the last refusal having been made via telephone to Mr. Tyler on April 24, 1997;
10. That all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by

08785,077

fines or imprisonment, or both under Title 18, United States Code §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gene L. Tyler", written over a horizontal line.

Gene L. Tyler  
Registration No. 35,395  
Phone: 409-238-7239

April 25, 1997

AMENDED STATEMENT OF RANDALL C. JENKINES, JR.

I, Randall C. Jenkins, Jr., residing at 1927 Canterbury Lane, Dalton Georgia 30720-7031, being duly sworn, declare to the best of my knowledge that:

1. I am an inventor on Application Serial No. 08/785,077, filed January 17, 1997;
2. I have made two attempts to obtain the signature of Danny Kazmierski (Danny) on: the Individual Assignment and Inventor's Declaration; Declaration and Power of Attorney; Taiwan Assignment & Oath; and the Specification, including claims, abstract, and drawings for Application Serial No. 08/785,077.
3. The first attempt was made in January of 1996 when after signing the forms I met with Danny to obtain his signature. I left the paperwork with him to review and sign. Several days later I met with him to pick up the documents so that I could send them back to the Dow Chemical Patent Department (patent department). He gave them back to me unsigned. He stated that he decided not to sign them because it was not in his best interest due to the potential sale of Custom Coating, Inc., his employer.
4. Several months later, in approximately March or April of 1997, I was instructed by the patent department to try again to obtain his signature on the application papers. Before I met with Danny, I called Carl Poteet, the owner of Custom Coating, Inc., to discuss this situation and get his advice. He told me to ask Danny one more time for his signature. I met with Danny a second time and I told him that Carl wanted me to ask you one more time for you signature. He again refused to sign and walked away. At this time I sent the paperwork back to the patent department without Danny's signature.

Respectfully Submitted,

  
Randall C. Jenkins

On this 19 day of December 1997, personally appeared  
before me,

**Randall C. Jenkins, Jr.**

known or identified to me to be the individual described in and who executed the foregoing document and acknowledged the same as a free act and deed for uses and purposes therein expressed.

(SEAL)

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JUN 25 2002

  
Notary Public

MY COMM. EXPIRES OCT. 9, 2003

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AFFIDAVIT OF CARL POTEET

Carl Poteet, the Chief Executive Officer of Custom Coating, Inc., declares as follows:

1. That he is the Chief Executive Officer of Custom Coating Inc., (CCI) and has held that position since 1972.
2. That he hired Daniel W. Kazmierski on or about 1979 to work at CCI.
3. That since 1995, Mr. Kazmierski has held the title of Vice President of Manufacturing and Operations.
4. That Mr. Kazmierski, was employed to oversee the operations of CCI which includes the coating of carpets with polyurethane backings.
5. That, as a part of Mr. Kazmierski's responsibilities and duties to CCI, he was assigned the task of solving production problems and improving product quality.
6. That the work done in conceiving and reducing to practice the invention of U.S. Patent Application S/N 08/785,077 and its parent, U.S. Patent Application S/N 60/010,247, was done within the scope of Mr. Kazmierski's employment as Vice President of Manufacturing and Operations.
7. That while Mr. Kazmierski does not have a formal employee agreement with CCI, he is aware that he has a fiduciary responsibility to CCI which includes the assignment of any inventions regarding carpet coating to CCI.
8. That from prior to the conception of the invention of U.S. Patent Application S/N 08/785,077 and its parent, U.S. Patent Application S/N 60/010,247, there is and continues to be been an

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active agreement in place between The Dow Chemical Company (DOW) and CCI which obligates CCI to assign to DOW any inventions relating to coating carpets with polyurethane backings.

9. That all statements made herein of my own knowledge and true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fines or imprisonment, or both under Title 18, United States Code §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further, declarant sayeth not.

Carl Poteet  
Carl Poteet  
Chief Executive Officer  
Custom Coating, Inc.  
date: 1/8/97

Sworn to and subscribed before me this 8 day of April, 1997.

Quill Bowen  
Notary Public  
MY COMM EXPIRES OCT. 9, 2000

(SEAL)

STATEMENT OF RANDALL C. JENKINES

I, Randall C. Jenkins, residing at 1927 Canterbury Lane, Dalton Georgia 30720-7031, being duly sworn, declare to the best of my knowledge that:

1. I am an inventor on Application Serial No. 08/785,077, filed January 17, 1997;
2. I have made two attempts to obtain the signature of Danny Kazmierski (Danny) on application papers for Application Serial No. 08/785,077.
3. The first attempt was made in January of 1996 when after signing the forms I met with Danny to obtain his signature. I left the paperwork with him to review and sign. Several days later I met with him to pick up the documents so that I could send them back to the Dow Chemical Patent Department (patent department). He gave them back to me unsigned. He stated that he decided not to sign them because it was not in his best interest due to the potential sale of Custom Coating, Inc., his employer.
4. Several months later, in approximately March or April of 1997, I was instructed by the patent department to try again to obtain his signature on the application papers. Before I met with Danny, I called Carl Poteet, the owner of Custom Coating, Inc., to discuss this situation and get his advice. He told me to ask Danny one more time for his signature. I met with Danny a second time and I told him that Carl wanted me to ask you one more time for you signature. He again refused to sign and walked away. At this time I sent the paperwork back to the patent department without Danny's signature.

Respectfully Submitted,

  
Randall C. Jenkins

On this 27 day of August 1997, personally appeared before me,

**Randall C. Jenkins**

known or identified to me to be the individual described in and who executed the foregoing document and acknowledged the same as a free act and deed for uses and purposes therein expressed.

(SEAL)

  
Notary Public

MY COMM. EXPIRES OCT. 9, 2000